

## **TITLE 4 - DEPARTMENT OF ECONOMIC DEVELOPMENT**

### **Division 140 - Division of Finance Chapter 3 - Retail Credit Sales**

#### **4 CSR 140-3.020 Recordkeeping**

PURPOSE: Retail credit financing institutions are subject to examination by the Division of Finance for the purpose of determining whether such companies are complying with the provisions of Chapter 364, RSMo, sections 408.250 through 408.370, RSMo, and other laws relating to retail credit financing. In addition, such companies are subject to regulation by the Division of Finance with respect to their financing activities and the sale of insurance in connection with these financing activities. The purpose of this rule is to establish minimum recordkeeping requirements to facilitate examination by the Division of Finance.

(1) Books and Records. No special system of records is required by the commissioner of finance. The records of a financing institution will be considered sufficient if they include a cash journal, double entry general ledger or a comparable record and an individual account ledger. The records of the business of each registered office shall be maintained so that the assets, liabilities, income and expense may be readily segregated.

(2) Cash Journal. A cash book or cash journal shall contain a chronological record of the receipt and disbursement of all funds including refunds, title transfer fees and all other items of receipt or expenditure incidental to the granting or collection of a retail time contract or retail charge agreement and replevin, repossession or sale of collateral.

(3) General Ledger. The general ledger shall be posted at least monthly. A trial balance sheet and profit and loss statement shall be available to the examiner. Where the general ledger is kept at a central office other than the location of the registered office, the central office shall provide information required by this section.

(4) Account Ledger. The individual ledger, preferably individual account card, shall be kept for each individual contract or charge agreement. Such ledger card or sheet shall set forth not less than the following items:

(A) Brief description of security pledged on contract agreement;

(B) Account number;

(C) Name and address of retail buyer and of the retail seller;

(D) Date of contract or charge agreement;

(E) Date when first and subsequent payments are due;

(F) Number of installments;

(G) Amount of installments;

(H) Date payments received;

(I) The amount of charge for life insurance, if sold in connection with the contract, specifying type, period and amount of coverage;

(J) The amount of charge for accident and health insurance, if sold in connection with the contract, specifying type, period and amount of coverage;

(K) The amount of charge for property insurance, if sold in connection with the contract, specifying type, period and amount of coverage;

(L) The amount of official fees;

(M) The principal amount of the contract or agreement;

(N) The time charge;

(O) The total of the principal and time charge;

(P) Amount paid on principal when face of contract does not include interest;

(Q) Amount paid on interest when interest is not added to principal;

(R) The unpaid balance of the contract agreement; and

(S) The date and amount of any additional fees collected for delinquency or collection.

(5) Index. The holder of a retail time contract or retail charge agreement shall maintain a file which shall index alphabetically each retail buyer and contain not less than the following information: name of retail buyer, address of retail buyer, date of contract, account number and date paid in full. A separate index shall be kept on open contracts or agreements and those paid in full.

(6) Account Number. Each retail time contract or retail charge agreement shall bear a number which corresponds to the account number.

(7) Records Available. All books, records and papers, including the contracts, applications, assignments, bills of sale, mortgages, record of all insurance policies issued by or through the holder or seller as agent or broker in connection with the contract, shall be kept in the office of the holder and made available to the examiner of the Division of Finance for examination at any time without previous notice. When contracts are hypothecated or deposited with a financial institution or parties in connection with credit, access must be provided for the examiner when the institution holding those contracts is situated in Missouri. When the institution or person holding those contracts is not so situated or access is not provided, the holder shall obtain from such institution or person either a monthly list of contracts held or a copy of the lists of contracts deposited and withdrawn; such lists to show date, original amount, name or number of account and bear authorized signature of the institution or person.

(8) Handling of Errors. When an error is made on the individual ledger or general ledger, a single thin line, preferably in red, shall be drawn through the improper entry and the correct entry made on the following line. No erasures whatsoever shall be made in any account of record.

(9) Preservation of Records. The holder of a retail time contract or retail charge agreement shall keep all records on contracts or agreements available for examination for a period of two (2) years from the date of final payment.

(10) Contracts Paid in Full. When a retail time contract or retail charge agreement is paid in full it shall be the responsibility of the holder to mark the original contract paid in full and return it to the buyer.

(11) Contracts Paid in Full Before Maturity. When a retail time contract or retail charge agreement is paid in full before maturity the individual ledger shall show not less than the following information:

(A) The date paid in full;

(B) The amount of interest refunded; and

(C) The amount of each type of insurance refund, if sold in connection with the contract, shall be shown separately.

(12) Contracts Paid in Full by Life Insurance. If a retail time contract or retail charge agreement is paid upon the death of the buyer by credit life insurance sold in connection with the contract a death claim file shall be maintained containing not less than the following information:

(A) The individual ledger;

(B) Copy of the insurance policy or certificate;

(C) Copy of the contract;

(D) Copy of the death certificate;

(E) Copy of all checks issued by the insurance company;

(F) Copy of all checks issued by the holder in connection with the claim; and

(G) All refunds shall be calculated as of the date of death of the buyer.

Auth: section 364.060, RSMo (1986). Original rule filed Jan. 14, 1977, effective April 15, 1977.

#### **4 CSR 140-3.030 Licensing**

PURPOSE: Retail credit financing institutions are subject to examination by the Division of Finance for the purpose of determining whether such companies are complying with the provisions of Chapter 364, RSMo, sections 408.250 through 408.370, RSMo and other laws relating to retail credit financing. In addition, such companies are subject to regulation by the Division of Finance with respect to their financing activities and the sale of insurance in connection with these financial activities. The purpose of this rule is to establish guidelines for required licensing.

(1) Any location at which a financing institution permits any person to accept or execute any forms of documents relating to retail credit sales financing other than the place of business recited in the financing institution's registration certificate shall be deemed to be a place of business of the financing institution and shall require a separate certificate of registration; provided, however, that no merchant dealing with retail time sales contracts issued to finance such merchant's own sales from inventory shall be considered to be doing business in behalf of the financial institution.

Auth: section 364.060, RSMo (1986). Original rule filed Jan. 14, 1977, effective April 15, 1977.

#### **4 CSR 140-3.040 Extension Fees**

PURPOSE: Extension fees are believed by the director of finance to be a fair and equitable approach to certain problems which can occur during the term of precomputed retail credit sales contracts. This rule is designed to provide a simple extension fee formula which is equitable for both the financial institutions and the debtor.

(1) Extensions on precomputed contracts made pursuant to the Retail Credit Sales Act shall be calculated according to the following formula:

$$\text{UNIT CHARGE (UC)} = \frac{\text{Total Finance Charge}}{\text{Sum of the Digits in the Original term that is } 1 + 2 + 3, \text{ etc.}}$$

Extension fee = UC times NUMBER OF FULL REMAINING INSTALLMENTS. Example: consider a twenty-four (24) month contract of \$1,925.25 with finance charges of \$474.75, monthly payments of \$100 and APR of 22.13%.

$$\text{UC} = \frac{474.75}{300} = 1.5825$$

If an extension is taken with twenty-two (22) installments remaining, the extension fee would be 22 times 1.5825 or \$34.81. Considerations within the act necessitate the following limitations on extensions:

(A) No extension fee shall be collected more than one (1) month prior to the due date of the earliest installment being deferred;

(B) No extension shall be collected for any partial payment, however, two dollars (\$2) or less shall not be considered a partial payment;

(C) A minimum extension fee of one dollar (\$1) will be allowed;

(D) Any principal payment collected on the same day as an extension shall be applied before calculating the extension fee; and

(E) In the event of prepayment in full of the note or contract, the extensions shall be counted as months and the rule of seventy eight's (78's) factor, based on this total, applied to all of the finance charges contracted for plus the extension fees collected.

Auth: section 364-060, RSMo (1986). Original rule filed Feb. 13, 1980, effective June 12, 1980.

#### **4 CSR 140-3.041 Retail Credit Sales - Insurance**

PURPOSE: This rule is designed to promote consistent regulation of credit property insurance sold in connection with retail credit sales. It is felt that this regulation will promote competition.

(1) Credit property insurance may be sold, requisitioned, required or accepted in connection with any retail time transaction; provided, however, that such credit property insurance is subject to the following requirements, restrictions and qualifications:

(A) Minimum Policy Standards. Credit property insurance must include standard fire coverage, extended coverage endorsement and replacement cost provision endorsement; such insurance must calculate benefits from the date of loss;

(B) Written Evidence of Coverage. The consumer must be provided with a copy of the policy or certificate of insurance within thirty (30) days of the extension of credit;

(C) Personal Property Lists. The holder must retain a list of the personal property securing the extension of credit which list must be signed by the consumer and dated to correspond with the extension of credit;

(D) Consumer's Rights. The consumer shall have the following rights concerning any credit property insurance:

1. The consumer shall not be required or coerced to obtain insurance from any particular insurer or agent as a condition for obtaining credit;

2. The consumer may substitute coverage at any time and, upon such substitution, shall be entitled to a pro rata refund of the unearned premium; where such insurance was not initially required by the creditor, the consumer may cancel at any time without substituting and shall be entitled to a pro rata refund of any premium paid; and

3. Credit property insurance must be canceled upon the satisfaction or termination of the underlying indebtedness; upon such cancellation, the consumer shall be entitled to a pro rata refund of the unearned premium;

(E) Insurance not to Exceed Contract Terms. Credit property insurance may not exceed in amount the total amount of the indebtedness nor exceed in duration the scheduled term of the underlying contract;

(F) Rates. Credit property insurance rates may not exceed the rates for such coverage prescribed or approved by the Division of Insurance; and

(G) Severability. If any provision of any section of this regulation or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or that section or application of the regulations which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are declared to be severable.

Auth: sections 364.060 and 408.280, RSMo (1986). Original rule filed June 14, 1978, effective Sept. 11, 1978. Amended: Filed April 12, 1979, effective July 12, 1979.

## TITLE 4 - DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 140 - Division of Finance Chapter 4 - Motor Vehicle Time Sales

#### 4 CSR 140-4.020 Recordkeeping

PURPOSE: The Division of Finance, Department of Economic Development has the authority to promulgate rules necessary to enforce the laws pertaining to motor vehicle time sales. The purpose of this rule is to establish minimum recordkeeping requirements to facilitate examination by the Division of Finance.

(1) Books and Records. No special system of records is required by the commissioner of finance. The records of a sales finance company will be considered sufficient if they include a cash journal, double entry general ledger or a comparable record and an individual account ledger. The records of the business of each registered office shall be maintained so that the assets, liabilities, income and expenses may be readily segregated.

(2) Cash Journal. A cash book or cash journal shall contain a chronological record of the receipt and disbursement of all funds including refunds, title transfer fees and all other items of receipt or expenditure incidental to the granting or collection of a retail installment contract and replevin, repossession or sale of collateral.

(3) General Ledger. The general ledger shall be posted at least monthly. A trial balance sheet and a profit and loss statement shall be available to the examiner. Where the general ledger is kept at a central office other than the location of the registered office, the central office shall provide information required by this section.

(4) Account Ledger. The individual ledger, preferably individual account card, shall be kept for each individual contract. Such ledger card or sheet shall set forth not less than the following items:

(A) Brief description of security pledged on contract, year model and whether new or used;

(B) Account number;

(C) Name and address of the buyer;

(D) Date of the contract;

(E) Date of first and subsequent payments;

(F) Number of installments;

(G) Amount of installments;

(H) Date payments received;

(I) The aggregate amount for all insurance, if a separate charge is made, on the motor vehicle against loss or damage of the motor vehicle, specifying the types of coverage and period;

(J) The aggregate amount for all insurance, if a separate charge is made, covering bodily injury and property damage to the person or property of others, specifying the types of coverage and period;

(K) The amount of charge for life insurance and accident and health insurance, if sold in connection with the contract, specifying type, period and amount of coverage;

(L) The amount of official fees;

(M) The principal amount of the contract;

(N) The time price differential;

(O) The total of principal and time price differential;

(P) The unpaid balance of the account; and

(Q) The date and amount of any additional interest collected on default or deferment.

(5) Index. The holder of a retail installment contract shall maintain a file which shall index alphabetically each retail buyer and contain not less than the following information: name of retail buyer, address of retail buyer, date of contract, account number and date paid in full. A separate index shall be kept on open contracts and those paid in full.

(6) Account Number. Each contract shall bear a number which corresponds to the account number.

(7) Records Available. All books, records and papers, including the contracts, applications, assignments, bills of sale, mortgages, motor vehicle titles, record of all insurance policies issued by or through the holder or seller as agent or broker in connection with the contract, shall be kept in the office of the holder and made available to the examiner of the Division of Finance for examination at any time without previous notice. When contracts are hypothecated or deposited with a financial institution or parties in connection with a loan or credit, access must be provided for the examiner when the institution holding those contracts is situated in Missouri. When the institution or person holding those contracts is not so situated or access is not provided, the holder shall obtain from such institution or person either a monthly list of contracts held or a copy of the lists of contracts deposited and withdrawn; such lists to show date, original amount, name or number of account and bear authorized signature of the institution or person. In the event any contract is transferred to another office or company, the transfer or holder shall maintain in his files a copy of the original ledger card noting deposition of the contracts.

(8) Handling of Errors. When an error is made on the individual ledger or general ledger, a single thin line, preferably in red, shall be drawn through the improper entry and the correct entry made on the following line. No erasures whatsoever shall be made in any account of record.

(9) Preservation of Records. The holder of a retail installment contract shall keep all records on contracts or agreements available for examination for a period of two (2) years from the date of final payment.

(10) Contracts Paid in Full. When a contract is paid in full it shall be the responsibility of the holder to mark the original contract paid in full and return it to the buyer.

(11) Contracts Paid in Full Before Maturity. When a contract is paid in full before maturity the individual ledger shall show not less than the following information:

(A) The date paid in full;

(B) The amount of interest refunded; and

(C) The amount of each type of insurance refund, if sold in connection with the contract, shall be shown separately.

(12) Contracts Paid in Full by Life Insurance. If a contract is paid upon the death of the buyer by credit life insurance sold in connection with the contract a death claim file shall be maintained containing not less than the following information:

(A) The individual ledger;

(B) Copy of the insurance policy or certificate;

(C) Copy of the contract;

(D) Copy of the death certificate;

(E) Copy of all checks issued by the insurance company;

(F) Copy of all checks issued by the holder in connection with the claim; and

(G) All refunds shall be calculated as of the date of death of the buyer.

Auth: section 365.060, RSMo (1986). Original rule filed Jan. 14, 1977, effective April 15, 1977.

#### 4 CSR 140-4.030 Licensing

PURPOSE: The Division of Finance, Department of Economic Development has the authority to promulgate rules necessary to enforce the laws pertaining to motor vehicle time sales. The purpose of this rule is to establish guidelines for required licensing.

(1) Any location at which a sales finance company permits any person to accept or execute any forms or documents relating to motor vehicle time sales other than the place of business recited in the sales finance company registration certificate shall be deemed to be a place of business of the sales finance company and shall require a separate certificate of registration; provided, however that no merchant dealing with motor vehicle time sales contracts issued to finance such merchant's own sales from inventory shall be considered to be doing business in behalf of said sales finance company.

Auth: section 365.060, RSMo (1986). Original rule filed Jan. 14, 1977, effective April 15, 1977.

#### 4 CSR 140-4.040 Extension Fees

PURPOSE: This rule is designed to provide a simple extension fee formula which is equitable for both the financing institution and the debtor.

(1) Extensions on precomputed contracts made pursuant to the Motor Vehicle Time Sales Act shall be calculated according to the following formula:

$$\text{UNIT CHARGE (UC)} = \frac{\text{Total Finance Charge}}{\text{Sum of the Digits in the Original term that is } 1 + 2 + 3, \text{ etc.}}$$

Extension fee = UC times NUMBER OF FULL REMAINING INSTALLMENTS. Example: consider a twenty-four (24) month contract of \$1,925.25 with finance charges of \$474.75, monthly payments of \$100 and APR of 22.13%.

$$\text{UC} = \frac{474.75}{300} = 1.5825$$

If an extension is taken with twenty-two (22) installments remaining, the extension fee would be 22 times 1.5825 or \$34.81. Considerations within the act necessitate the following limitations on extensions:

(A) No extension fee shall be collected more than one (1) month prior to the due date of the earliest installment being deferred:

(B) No extension shall be collected for any partial payment, however, two dollars (\$2) or less shall not be considered a partial payment;

(C) A minimum extension fee of one dollar (\$1) will be allowed;

(D) Any principal payment collected on the same day as an extension shall be applied before calculating the extension fee; and

(E) In the event of prepayment in full of the note or contract, the extensions shall be counted as months and the rule of seventy-eight's (78's) factor, based on this total, applied to all of the finance charges contracted for plus the extension fees collected.

Auth: section 365.060, RSMo (1986). Original rule filed Feb. 13, 1980, effective June 12, 1980.

## Division 140 - Division of Finance Chapter 5 - Small Loan Companies

#### 4 CSR 140-5.010 Audits

PURPOSE: Small loan companies are required to file an audit once a year with the Division of Finance. Unless this audit is filed, a company may not receive a renewal of its certificate of registration. This rule sets out the type of audit required and the time when it must be filed.

(1) No certificate of registration will be renewed unless a properly completed audit report is submitted to this division.

(2) A properly computed audit report shall meet the following requirements:

(A) It shall contain a balance sheet reflecting the registrant's financial condition; and

(B) It shall contain an opinion statement signed by a certified public accountant (C.P.A.) or authorized representative stating that s/he believes that, according to generally accepted accounting principles, the enclosed balance sheet fairly and accurately reflects the registrant's financial condition.

(3) The audit may only be prepared by a C.P.A. or a firm of which one (1) of the partners or employees is a C.P.A. The accountant, if an individual, shall have no financial interest in the registrant. If the accountant is a partnership or professional corporation, none of the partners nor any of the directors, officers or employees shall have a financial interest.

(4) The registrant shall submit an audit report reflecting its financial condition as of the end of the most recent fiscal year. However, if the registrant's most recent fiscal year ends within five (5) months of the statutory deadline for submitting the audit (May 31), the registrant may submit an audit report for the next most recent fiscal year.

(5) Since the requirements of this rule, specifically section (4), differ from the prior manner in which this division administered sections 367.205, 367.210 and 367.215, RSMo the following procedure shall be observed by registrants in applying for a renewal of a certificate of registration commencing with July 1, 1975 and ending with June 30, 1976:

(A) If the registrant has a fiscal year ending in the period commencing with July 1 and ending with December 31, it shall submit an audit report covering the fiscal year ending in 1974;

(B) If the registrant has a fiscal year ending in the period commencing with January 1 and ending with June 30, it need only submit an audit report for the fiscal year ending in 1974 and need not submit an audit report for the fiscal year ending in 1975; and

(C) If the registrant has already submitted an audit report for its fiscal year ending in 1974, it need not resubmit that report in order to obtain a renewal of its certificate of registration for the year commencing with July 1, 1975 and ending with June 30, 1976.

Auth: section 367.170, RSMo (1986).\* Original rule filed Sept. 19, 1975, effective Sept. 29, 1975. \*Original authority 1951, amended 1984. State ex rel. Miller v. Crist, 579 S.W.2d 837 (Mo. App. 1979). Appellant sought through writ of mandamus to compel the commissioner of finance to disclose certain records of the division involving small loan companies. Since the records are made confidential by a specific statutory provision predating the general open records laws, and no repeal by implication is apparent, the general law must yield to the specific, and disclosure is not required.

## TITLE 4 - DEPARTMENT OF ECONOMIC DEVELOPMENT

#### 4 CSR 140-5.020 Lending Activities

PURPOSE: Consumer credit lenders (small loan companies) are subject to examination by the Division of Finance for the purpose of determining these companies are complying with the provisions of Chapter 367, RSMo and the laws relating to consumer lending. In addition, these companies are subject to regulation by the Division of Finance with respect to their lending activities and the sale of insurance in connection with loans made. This rule sets out minimum recordkeeping requirements to facilitate examinations by the Division of Finance and establishes limitations upon the sale of insurance by small loan companies in connection with their lending activities.

(1) Each applicant, at the time of filing application, shall pay the sum of one hundred fifty dollars (\$150) as an annual registration fee for the period July 1 through June 30 of the following year. The annual fee shall be paid on or before June 30 of each year. If the initial fee is for a period of less than twelve (12) months, the fee shall be prorated according to the number of months remaining in the period. The remittance covering registration fee shall be made payable to the director of revenue and mailed to the Division of Finance. Surety bond in the amount of one thousand dollars (\$1000) shall accompany the initial application for certificate of registration and registration fee. The bond is to be coextensive with the registration year and must be furnished by a surety company authorized to do business in Missouri by the superintendent of insurance. Bond form will be furnished with the initial application for certificate of registration. No surety bond shall be required on renewal applications unless the commissioner shall otherwise determine and no surety bond shall be required in connection with the initial application if the applicant or, in the case of a corporation, any affiliate under the same general management has had a certificate of registration in effect for at least one (1) year unless the commissioner deems a bond necessary and requires that bond.

(2) No special system of records is required by the commissioner of finance. The records of a consumer credit lender will be considered sufficient if they include a cash journal, double entry general ledger, or a comparable record, and an individual account ledger. The records of the business of each registered office shall be maintained so that the assets, liabilities, income and expense may be readily segregated.

(3) A cash book or cash journal shall contain a chronological record of the receipt and disbursement of all funds including refunds, title transfer fees, filing fees and all other items of receipt or expenditure incidental to the granting or collection of a loan and replevin, repossession or sale of collateral.

(4) The general ledger shall be posted at least monthly. A trial balance sheet and a profit and loss statement shall be prepared within thirty (30) days after the close of every monthly period. This trial balance or balance sheet and profit and loss statement shall be available to the examiner. Where the general ledger is kept at a central office other than the location of the registered lender, the general office shall provide information in line with this section.

(5) The individual ledger, preferably individual account card, shall be kept for each individual loan. The ledger card or sheet shall set forth not less than the following items: kind of security pledged for loan; account number; name and address of the borrower; names of comakers and endorsers; number of installments; dates of first and subsequent payments; date of loan; principal amount of loan; renewal notes (old account so stamped shows also number of current loan); date payments received; amount paid on interest when interest is not added to principal; amount paid on principal when face of note does not include interest; amount of payment including interest and principal; unpaid balance of principal or principal and interest combined; date interest paid to, if this date differs from date of payment, if interest is not included in face of note; if interest is added on, show this

amount in a separate figure; amount of any additional interest collected on default or extension, if interest according to original contract is included in face of note; and direct loan ledger cards and sales finance ledger cards shall be filed separately.

(6) The lender shall maintain a file which shall index alphabetically each maker, comaker and endorser on each loan and shall recite each loan in respect to which party is a maker, comaker or endorser and make available the following information: name and address of borrower, and name of husband or wife, if married; names and addresses of comakers or endorsers; date of loan; amount of loan; number of loan; and date loan paid in full. The current record shall be filed separately from those paid in full.

(7) Each loan or loan contract shall bear a number which corresponds to the account number. Using this procedure it will not be necessary to provide a loan register.

(8) All books, records and papers, including the notes, applications, assignments, bills of sale, mortgages, motor vehicle titles, record of all insurance policies issued by or through the lender as agent or broker in connection with the loan shall be kept in the office of the lender and made available to the examiner of the Division of Finance for examination at any time without previous notice. When notes are hypothecated or deposited with a financial institution or parties in connection with a loan or credit, access must be provided for the examiner when the institution holding those notes is situated in Missouri. When the institution or person holding those notes is not so situated or access is not provided, the lender shall obtain from this institution or person either a monthly list of all notes held or a copy of the lists of notes deposited and withdrawn; these lists to show date, original amount, name or number of account and bear authorized signature of the institution or person.

(9) When an error is made on the individual ledger or general ledger, a single thin line, preferably in red, shall be drawn through the improper entry and the correct entry made on the following line. No erasures shall be made in any account of record.

(10) A consumer credit lender shall keep all records on loans available for examination for a period of two (2) years from the date of final payment.

(11) Extensions on precomputed loans made pursuant to the Small Loan Act shall be calculated according to the following formula:

$$\text{UNIT CHARGE (UC)} = \frac{\text{Total Finance Charge}}{\text{Sum of the Digits in the Original term that is } 1 + 2 + 3, \text{ etc.}}$$

Extension fee = UC times NUMBER OF FULL REMAINING INSTALLMENTS. Example: consider a twenty-four (24) month contract of \$1,925.25 with finance charges of \$474.75, monthly payments of \$100 and APR of 22.13%.

$$\text{UC} = \frac{474.75}{300} = 1.5825$$

If an extension is taken with twenty-two (22) installments remaining, the extension fee would be  $22 = 1.5825$  or \$34.81. Considerations within the Act necessitate the following limitations on extensions:

(A) No extension may be taken on the first installment;

(B) No extension fee shall be collected more than one (1) month prior to the due date of the earliest installment being deferred;

(C) No extension shall be collected for any partial payment, however, two dollars (\$2) or less shall not be considered a partial payment;

(D) A minimum extension fee of one dollar (\$1) will be allowed;

(E) Any principal payment collected on the same day as an extension shall be applied before calculating the extension fee; and

(F) In the event of prepayment in full of the note or contract, the extensions shall be counted as months and the Rule of Seventy-Eight's (78's) factor, based on this total, applied to all of the interest contracted for, plus the extension fees collected.

(12) If a lender customarily by arrangement or otherwise permits its loan forms, including applications, notes, mortgages, financial statement, etc., to be in the hands of any person, firm or corporation at a place of business other than the place of business recited in the registration certificate for the purpose of having these applications, notes, mortgages or other documents executed by others at that place, whether or not this person, firm or corporation be an employee or agent of the lender, or purports to be an agent of prospective borrowers or a broker, the place where these loan papers are located shall be deemed to be a place of business of the lender and shall require a separate certificate of registration.

(13) Whenever a loan is secured by a lien on a motor vehicle, it shall be the responsibility of the lender to see that the title to the motor vehicle is in the name of the borrower executing the mortgage on this motor vehicle.

(14) No note or loan contract shall be accelerated as to payment unless it shall be duly signed by the borrower and shall contain a provision that, upon default in payment of the note or loan contract or any part, or upon default of a condition contained in this note or loan contract, it may be so accelerated. Whenever the lender shall accelerate the balance due on a note or loan contract which provides for an amount of interest added to the principal amount, the unpaid balance shall be reduced by the refund of that portion of the amount of interest originally contracted for and added to the principal which would be required by section 408.170, RSMo as if prepayment in full occurred on the date of acceleration and the lender may charge interest at the rate originally contracted for computed on unpaid balances for the time actually outstanding from the installment date following the date of acceleration until paid.

(15) Comprehensive and collision insurance with a deductible clause of not less than fifty dollars (\$50) may be sold, requisitioned, required or accepted in connection with any consumer credit loan secured by a lien on any motor vehicle in an amount that does not exceed the average retail value of the motor vehicle in accordance with any of the standard automobile manuals. Motor vehicle insurance is limited to the motor vehicle owned by the borrower and shall not cover motor vehicles of comakers, endorsers, guarantors or others. Provided, that on consumer credit loans of three hundred dollars (\$300) or less secured by a lien on a motor vehicle, no insurance may be sold, requisitioned or required.

(16) Decreasing term life insurance may be sold, requisitioned, required or accepted by any lender in connection with any consumer credit loan. The original amount of this insurance shall not exceed the face amount of the note evidencing this loan.

(17) Credit property insurance may be sold, requisitioned, required or accepted in connection with any consumer credit loan; provided, that the credit property

insurance is subject to the following requirements, restrictions and qualifications:

(A) Minimum Policy Standards. Credit property insurance must include standard fire coverage, extended coverage endorsement and replacement cost provision endorsement; this insurance must calculate benefits from the date of loss;

(B) Written Evidence of Coverage. The borrower must be provided with a copy of the policy or certificate of insurance within thirty (30) days of the extension of credit;

(C) Personal Property Lists. Whenever credit property insurance is sold by a creditor, the creditor must retain a list of the personal property securing the loan which list must be signed by the borrower and dated to correspond with the loan;

(D) Borrower's Rights. The borrower shall have the following rights concerning any credit property insurance:

1. The borrower shall not be required or coerced to obtain insurance from any particular insurer or agent as a condition for obtaining a loan;

2. The borrower may substitute coverage at any time and, upon substitution, shall be entitled to a pro rata refund of the unearned premium; where insurance was not initially required by the creditor, the borrower may cancel at any time without substituting and shall be entitled to a pro rata refund of any premium paid; and

3. Credit property insurance must be canceled upon the satisfaction or termination of the underlying indebtedness; upon cancellation, the borrower shall be entitled to a pro rata refund of the unearned premium;

(E) Notice of Borrower's Rights. Lenders must provide borrowers with a summary of their rights concerning credit property insurance, a signed, dated notice of the following or substantially similar language will evidence compliance with this requirement:

"I understand that I am free to insure my furniture with whatever licensed company, agent or broker I may choose; that I may do so at any time after the date of this loan; that I have not canceled existing insurance on my furniture if I owned it before this loan; and that this loan cannot be denied me simply because I did not purchase my insurance through the lender."

.....  
Date

.....  
Signature of Insured

(F) Insurance Not to Exceed Contract Terms. Credit property insurance may not exceed in amount the total amount of the indebtedness nor exceed in duration the scheduled term of the underlying contract;

(G) Rates. Credit property insurance rates may not exceed the rates for coverage prescribed or approved by the Department of Insurance; and

(H) Severability. If any provision of any section of this rule or the application of any person or circumstances is held invalid, these invalidity shall not affect other provisions of that section or application of the rule which can be given effect without the invalid provision or application and to this end the provisions of this rule are declared to be severable.

(18) No insurance shall be sold in connection with consumer credit loans except in companies duly authorized to do business in this state.

(19) No insurance may be sold in connection with consumer credit loans which contain special policy provisions covering conversion, embezzlement or similar protections against the borrower's dishonesty.

(20) Health and accident insurance may be sold, requisitioned or accepted by any lender in connection with any consumer credit loan. A certificate of policy must be issued to borrower. Insurance shall be obtained from an insurance

company duly authorized to conduct business in this state. Accident and health insurance may be in the form prescribed in section 385.070(2), RSMo or in the form known as dismemberment insurance; under no circumstances may both types of accident and health insurance be sold in connection with the same consumer credit loan. If credit dismemberment insurance is sold, requisitioned or accepted in connection with a consumer credit loan, this insurance shall be subject to the following requirements, restrictions and qualifications:

(A) Persons Insured. Credit dismemberment insurance may be written on no more than one (1) person on any contract;

(B) Written Evidence of Coverage. The borrower must be provided with a copy of the dismemberment policy or certificate of insurance within thirty (30) days of the extension of credit;

(C) Insurance must be available as coverage by itself and not merely as a supplement to other insurance;

(D) Cancellation. Credit dismemberment insurance shall be subject to the refunding provisions as though it were credit life insurance issued pursuant to Chapter 385, RSMo and corresponding regulations;

(E) Insurance Not to Exceed Contract Terms. Credit dismemberment insurance may not exceed in amount the total indebtedness nor exceed the underlying contract in duration;

(F) Minimum Standards. Credit dismemberment insurance must provide for a total payoff of an underlying indebtedness in the event of loss of the sight of one (1) eye, loss of one (1) hand at or above the wrist, or loss of one (1) foot at or above the ankle or both, no restrictions shall be permitted, that is, full benefits must be payable on any dismemberment or blindness which occurs during the coverage; and

(G) Recordkeeping. Claims which are made through the dismemberment insurance shall be maintained in the same manner as a death claim.

(21) The charge for any insurance sold shall not be greater than the standard or usual rate charged for comparable insurance by insurance companies or agents for similar insurance that is sold other than in connection with consumer credit loans.

(22) The lender shall deliver to the borrower at the time the loan is made or within a reasonable time, in all cases where insurance is sold or requisitioned by the lender and paid for by the borrower, a copy of the insurance policy or a certificate of insurance which shall set out the effective date, date of expiration, type and amount of coverage and amount of premium.

(23) When a loan secured by insurance is renewed or refinanced, the insurance policy or certificate shall be canceled before any new insurance is written. When this cancellation is made, the insured shall receive a refund of a portion of the premium paid as follows: If the policy is decreasing term life insurance or health and accident insurance, the amount of the refund shall be computed under the Rule of Seventy Eight's (78's) refund method, which is the method specified in section 408.170, RSMo for refund of interest. If the policy is level term insurance or personal property insurance, the amount of the refund shall be that portion of the insurance premium paid which the number of full unexpired months of the policy after the date of renewal or refinancing bears to the total number of full months for which the premium was paid. Where the amount of the refund is less than one dollar (\$1), no refund need be made. Not more than one (1) policy of life and one (1) policy of health and accident may be in force at any one (1) time.

(24) Whenever any loan is prepaid in full, the lender shall release all claims to any insurance policy sold, requisitioned, required or accepted in connection with any

consumer credit loan and the lender shall return any policy held by it to the borrower.

(25) Every lender shall disclose in the annual report the income received by it from insurance sold in connection with consumer credit loans, together with the expense incurred in connection with this insurance and other relevant information as the commissioner of finance may prescribe.

(26) Every lender shall keep a record of each insurance transaction, available for inspection by the commissioner of finance, his/her deputies and examiners.

(27) If an issuing company shall cancel the original motor vehicle policy, the responsibility for securing new insurance of similar coverage rests upon the lender and, in the absence of this insurance, full refund of unearned premium shall be paid to the borrower in cash or credit to the borrower's loan account. In no case may a lender foreclose the account or seize the mortgaged chattel by reason of failure to furnish insurance under thirty (30) days' written notice, delivered to the borrower in person or by registered mail. This notice shall require the borrower to provide similar insurance coverage within ten (10) days as provided in the mortgage clause with the policy or to pay off his/her loan or loan contract without penalty of costs of suit, attorney's fees or otherwise.

(28) The lender shall not require, as a condition of making any loan or the renewal or extension of the loan, that the borrower shall negotiate through a particular insurance company or insurance agent or broker any policy of insurance or renewal of insurance.

(29) The lender shall display in a conspicuous place the following: "Credit insurance is available to borrowers. No new loan, renewal or extension thereof is conditioned upon purchase of such insurance from the lender or any particular insurer or agent."

Auth: section 367.170, RSMo (1986).\* Original rule filed Oct. 2, 1951, effective Oct. 12, 1951. Amended: Filed Feb. 23, 1952, effective March 5, 1952. Amended: Filed Feb. 26, 1952, effective March 8, 1952. Amended: Filed July 17, 1953, effective July 27, 1953. Amended: Filed May 21, 1954, effective May 31, 1954. Amended: Filed July 1, 1957, effective July 11, 1957. Amended: Filed Aug. 6, 1957, effective Aug. 16, 1957. Amended: Filed Jan. 6, 1958, effective Jan. 16, 1958. Amended: Filed Aug. 31, 1959, effective Sept. 10, 1959. Amended: Filed Sept. 25, 1961, effective Oct. 5, 1961. Amended: Filed Aug. 11, 1965, effective Aug. 21, 1965. Amended: Filed March 11, 1966, effective March 21, 1966. Amended: Filed Aug. 12, 1967, effective Aug. 22, 1967. Amended: Filed April 8, 1968, effective April 18, 1968. Amended: Filed April 13, 1978, effective Aug. 11, 1978. Amended: Filed June 14, 1978, effective Sept. 11, 1978. Amended: Filed April 12, 1979, effective July 12, 1979. Amended: Filed Feb. 13, 1980, effective June 12, 1980. Amended: Filed July 15, 1981, effective Oct. 15, 1981. \*Original authority 1951, amended 1984.

## **TITLE 4 - DEPARTMENT OF ECONOMIC DEVELOPMENT**

### **Division 140 - Division of Finance Chapter 11 - Small, Small Loan Companies**

#### **4 CSR 140-11.030 Licensing and General Provisions**

PURPOSE: Section 500 companies are required by section 408.500.1 to 408.506, RSMo, to obtain a license from the director of finance. This rule establishes guidelines concerning licenses, which locations will require a license and other general provisions.

(1) License. The license issued by the Division of Finance shall specify the location of the section 500 company

and shall be prominently displayed therein. The license shall not be transferable or assignable except that the company named in any original license may obtain a change of address without charge, upon approval of the director.

(2) Display of Notice. The notice required by section 408.500.4, RSMo shall be prominently displayed in the section 500 company office. The notice shall be clearly readable from any place in the office where loans are closed and shall include the name, address, and telephone number of the Division of Finance.

(3) Locations. The conduct of other business on the premises will not bar the issuance of a section 500 company license but the records of the company must be kept strictly separate from those of any other enterprise. Further, there should be enough of a distinction, through the use of signage or other means, that the customer can determine that s/he is dealing with a separate company. Under no circumstances will more than one (1) section 500 company license be issued to the same address.

(4) Additional Locations. Any location at which a section 500 company permits the acceptance or execution of any forms or documents relating to section 500 company business shall be deemed to be a place of business of the company and shall require a separate license.

(5) Contract Copies. A section 500 company shall provide the borrower with a copy of the signed contract at the time the loan is made and at each renewal. The company shall also retain a copy for the borrower's file. Each contract shall contain the name and address of the lender and of the borrower.

(6) Interest—Loan Origination Fee—When Earned. Section 408.500.5, RSMo provides that a loan repaid by the close of the section 500 company's next full business day shall be at no cost to the borrower. Section 500 loans which are not so repaid shall bear daily interest to be determined by applying the contract rate of interest to the principal balance and dividing that result by the number of days in the year. The loan origination fee, if permitted by section 408.140.1(1), RSMo is earned at the time the loan is made, unless the borrower returns the full principal balance by the end of the section 500 company's next full business day. The fee is only available on loans with terms of thirty (30) days or longer.

(7) Post-Dated Check. A post-dated check shall not be considered security or collateral; provided, however, that no post-dated check may bear any date earlier than the due date of the loan. A section 500 company shall not accept undated checks, checks that have been altered in any manner, or checks that do not bear the signature of the borrower. Should any such check be accepted, or should any post-dated check be deposited prior to its stated date, the section 500 company shall be barred from recovery of any interest or fees on the loan. A section 500 company shall not accept more than one (1) post-dated check per loan or renewal. A check left with a section 500 company shall be returned to the maker immediately upon payment, or renewal, of the loan.

(8) Renewals. The General Assembly has clearly indicated its intention that no borrower is to be indebted to a section 500 company on any particular loan for any great period of time. This is evidenced by language that a) requires the borrower to begin reducing the principal amount of the loan by not less than five percent (5%) with the first renewal, b) limits the number of renewals to six (6), and c) provides for seventy-five percent (75%) of the original loan amount as the maximum amount of interest and fees that a lender may collect. In determining whether a renewal or something else which does not count as a renewal has occurred, the Division

of Finance will insist upon absolute good faith from its licensees and will look to substance rather than form. Generally, if the customer enters the office indebted and leaves the office indebted, a renewal will be assumed to have taken place unless the loan was paid in full in cash. A section 500 company is required by section 408.500.7, RSMo to consider, at the inception of the loan, the borrower's ability to repay. This requires the section 500 company to consider the borrower's ability to make the required principal reductions when necessary. Exceptions to this requirement may result in enforcement as provided in sections 408.500.9 and 408.500.10, RSMo, which may include fines and/or revocation or suspension of the license. If a loan is renewed without the required principal reduction, the section 500 company shall reduce the principal of the loan to an amount that is consistent with the requirements of section 408.500.6, RSMo.

(9) Collection by Automated Clearing House (ACH). Checks may be presented for collection using an automated clearing house; however, a section 500 company shall not use a series of ACH transactions to collect a single check. Fees for dishonored ACH transactions shall be limited to those for refused instruments.

(10) Receipt for Payments. A receipt shall be given for the amount of each payment made in currency.

(11) Penalties. Violations of this rule shall be regarded as violations of sections 408.500.1 to 408.506, RSMo and subject to the same penalties as provided in sections 408.500.9 and 408.500.10, RSMo.

AUTHORITY: sections 361.105, RSMo 2000 and 408.500, RSMo Supp. 2002.\* Original rule filed Jan. 16, 2003, effective Aug. 30, 2003.

\*Original authority: 361.105, RSMo 1967, amended 1993, 1994, 1995 and 408.500, RSMo 2002.

#### **4 CSR 140-11.040 Record Keeping**

PURPOSE: Section 500 companies are subject to regulation and examination by the Division of Finance, pursuant to sections 408.500.1 to 408.506, RSMo, for the purpose of assuring compliance with all applicable laws. This rule establishes minimum record keeping requirements to facilitate examination and regulation.

(1) Books and Records. No special system of records is required by the director of finance. The records of a section 500 company will be considered sufficient if they include a cash journal, double-entry general ledger or a comparable record, and an individual account ledger. The records of the business of each registered office shall be maintained so that the assets, liabilities, income, and expenses may be readily ascertained.

(2) Cash Journal. A cash book or cash journal shall contain a chronological record of the receipt and disbursement of all funds including all items of receipt or expenditures incidental to the granting or collection of section 500 company loans. Entries in the cash journal shall be separate from all other business activities.

(3) General Ledger. The general ledger shall be posted at least monthly. A trial balance sheet and profit-and-loss statement shall be available to the examiner. When the general ledger is kept at a central office other than the location of the registered office, the central office shall provide information required by this section.

(4) Account Ledger. An individual record shall be kept for each borrower which shall include at least the following items:

- (A) Name of the borrower;
- (B) Date the original loan was made;
- (C) Original loan amount;
- (D) Interest rate;



- (E) Dates payments were received;
- (F) Amount of each payment received;
- (G) Amount of each payment applied to interest;
- (H) Amount of each payment applied to principal;
- (I) Amount applied to late charges, if any;
- (J) Amount applied to returned check charges, if any;
- (K) Principal balance; and
- (L) Renewal number.

(5) Records Available. All books, records and papers, including the contracts and applications, shall be kept in the office of the section 500 company and made available to the Division of Finance for examination at any time without previous notice. When contracts are hypothecated or deposited with a financial institution or other party in connection with credit, access must be provided for the examiner pursuant to agreement between the section 500 company and the other financial institution(s).

(6) Handling of Errors. When an error is made on the individual ledger or general ledger of a manual operation, a single thin line, preferably in red, shall be drawn through the improper entry and the correct entry made on the following line. No erasures whatsoever shall be made in any record.

(7) Records to be Maintained. A section 500 company shall preserve all records of company transactions, including cards used in a card system, if any, for at least two (2) years after making the final entry with respect to any section 500 company agreement. Preservation of records may be by microfilm, microfiche or electronic means.

(8) Contracts Paid in Full. When a section 500 note is paid in full, the original contract or a copy thereof shall be marked "paid" and returned to the borrower.

(9) Penalties. Violations of this rule shall be regarded as violations of sections 408.500.1 to 408.506, RSMo and subject to the same penalties as provided in sections 408.500.9 and 408.500.10, RSMo.

AUTHORITY: sections 361.105, RSMo 2000 and 408.500, RSMo Supp. 2002.\* Original rule filed Jan. 16, 2003, effective Aug. 30, 2003.

\*Original authority: 361.105, RSMo 1967, amended 1993, 1994, 1995 and 408.500, RSMo 2002.

## TITLE 4 - DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 140 - Division of Finance Chapter 12 - Sale of Checks (Money Order) Licensees

#### **4 CSR 140-12.010 Sale of Checks (Money Order) Bonds**

PURPOSE: All licensees, pursuant to the Missouri sale of checks law (sections 361.700-361.727, RSMo), must post a bond or an irrevocable letter of credit to insure faithful performance and that all checks (that is, money orders and travelers checks) will be paid. This rule sets the minimum acceptable standards for those bonds or irrevocable letters of credit.

No sale of checks license will be issued or renewed without the posting of a corporate surety bond or irrevocable letter of credit in the amount of one (1) million dollars; provided, however, that a lesser bond or letter of credit in an amount equal to five (5) times the high outstanding balance of checks sold in Missouri by the applicant and its agents during the previous calendar year rounded to the nearest one thousand dollars (\$1,000) will be acceptable upon a verification of the high outstanding balance and provided further that in no event may the bond or letter of credit be less than twenty-five thousand dollars (\$25,000). Verification shall be a sworn statement, on a form provided by the director, of the high outstanding balance; documents and records to prove such sworn statement must be maintained at the principal office of the licensee and be available for examination by the Division of Finance at all reasonable times and failure to maintain such records will subject the licensee to revocation per sections 361.700-361.727, RSMo. Money order accounts must be dedicated and no funds commingled with other funds of the agent. For purposes of this rule, the high outstanding balance of checks shall mean the highest dollar amount of checks sold but not yet paid on any day. The bond or irrevocable letter of credit shall be in a form satisfactory to the director and, if a bond, shall be issued by a bonding company or insurance company authorized to do business in Missouri or, if an irrevocable letter of credit, be issued by a federally insured financial institution, to secure the faithful performance of the obligations of the applicant and the receipt, transmission and payment of the money in connection with the sale or issuance of checks. At the time an application is forwarded to an initial applicant and at the renewal of any existing license, the applicant/renewal applicant must provide an affidavit declaring the high outstanding balance of checks sold within Missouri during the previous calendar year and must provide a bond or irrevocable letter of credit sufficient to cover all those liabilities within the limits stated here. In consideration of the tasks necessary to complete the process, compliance with the verification procedures for the licensing year which began April 15, 1995, will be considered timely if completed by July 17, 1995.

AUTHORITY: section 361.727, RSMo 2000.\* Original rule filed Dec. 11, 1990, effective April 29, 1991. Emergency amendment filed March 27, 1995, effective April 14, 1995, terminated May 1, 1995. Emergency amendment filed May 1, 1995, effective May 11, 1995, expired Sept. 11, 1995. Amended: Filed March 27, 1995, effective Sept. 30, 1995. Amended: Filed Feb. 15, 2002, effective Aug. 30, 2002. \*Original authority: 361.727, RSMo 1984, amended 1993.

## **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

### **Division 140—Division of Finance Chapter 13—Section 408.510 Companies**

#### **4 CSR 140-13.010 Licensing Requirements and General Provisions**

PURPOSE: Section 408.510 companies (consumer installment lenders) are required by section 408.510, RSMo, to obtain a license from the director of finance. In addition, consumer installment lenders are subject to examination by the Division of Finance for the purpose of determining that these companies are complying with the provisions of Chapter 367 and section 408.510, RSMo, and the laws relating to consumer installment lending. This rule sets out minimum record keeping requirements to facilitate examinations by the Division of Finance, which locations will require a license and other general provisions.

(1) Applicability of Other Regulations. Section 408.510 licensees are a special category of sections 367.100–367.215 lenders and, accordingly, are subject to the regulations generally applicable to licensees under those sections, i.e., 4 CSR 140-5.010 and 4 CSR 140-5.020 which, in the interest of brevity, are not restated here.

(2) Contract Copies. A consumer installment lender shall provide the borrower with a copy of the signed contract at the time the loan is made and at each renewal. The company shall also retain a copy for the borrower's file. Each contract shall contain the name and address of the lender and of the borrower.

(3) Amount of Loan. Consumer installment lenders are permitted to make loans of any amount, whether or not secured, and all loans made by such lenders must be payable in no fewer than four (4) substantially equal installments which must run for a minimum of one hundred twenty (120) days.

(4) Interest—Loan Origination Fee—When Earned. Consumer installment loans shall bear daily interest to be determined by applying the contract rate of interest to the principal balance and dividing that result by the number of days in the year. Loans may not have an amount of interest added to the principal of the loan or be subject to the "Rule of 78s" or "Sum of the Digits" method of refunding. The loan origination fee is earned at the time the loan is made.

(5) Fees. A consumer installment lender shall not charge, contract for or receive, either directly or indirectly, any fee not expressly permitted by section 408.140.1, RSMo.

(6) Contracts Paid in Full. When a consumer installment note is paid in full, the original contract or a copy thereof, shall be marked "paid" and returned to the borrower. Any security interest that no longer secures a loan shall be restored, cancelled, or released.

AUTHORITY: section 408.510, RSMo Supp. 2001.\* Original rule filed Feb. 15, 2002, effective Aug. 30, 2002.

\*Original authority: 408.510, RSMo 2001.

## **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

### **Division 140—Division of Finance Chapter 29—Title Loan Companies**

#### **4 CSR 140-29.010 Licensing, Record Keeping and General Provisions**

PURPOSE: Title loan companies (title lenders) are subject to examination by the Division of Finance for the purpose of determining that these companies are complying with the provisions of sections 367.500 to 367.533, RSMo, and the laws relating to title lending. This rule establishes minimum record keeping requirements to facilitate examination and regulation and other general provisions.

(1) Display of Notice. The notice required by section 367.525.3, RSMo shall be prominently displayed at a place in the title lending office. The notice shall be clearly readable from any place in the title lending office where loans are closed and shall include the name, address, and telephone number of the Division of Finance.

(2) Locations. The conduct of other business on the premises will not bar the issuance of a title loan license, but the records of the title lender must be kept strictly separate from those of any other enterprise. Further, there should be enough of a distinction, through the use of signage or other means, that the customer can determine that s/he is dealing with a separate company. Under no circumstances will more than one (1) title loan license be issued to the same address.

(3) Contract Copies. A title lender shall provide the borrower with a copy of the signed title loan agreement at the time the loan is made and at each renewal. The title lender shall also retain a copy for the borrower's file.

(4) Interest—Loan Origination Fee—When Earned. Section 367.518.1(5), RSMo provides that a loan repaid by the close of the title lender's next full business day shall be at no cost to the borrower. Title loans which are not so repaid shall bear daily interest to be determined by applying the contract rate of interest to the principal balance and dividing that result by the number of days in the year. The loan origination fee permitted by 408.140.1(1), RSMo is earned in full at the close of the lender's next full business day.

(5) Fees. A title lender shall not charge, contract for or receive, either directly or indirectly, fees not expressly permitted by section 408.140.1, RSMo.

(6) Jointly Owned Titled Personal Property. Whenever a certificate of title evidences more than one (1) owner of the titled personal property being used to secure a title loan agreement or renewal, the title lender shall obtain signatures authorizing the pledge of the titled personal property from each owner, whether or not obligated on the title loan agreement or renewal.

(7) Renewals.

(A) The General Assembly has clearly indicated that no borrower is to be indebted to a title lender for any great period of time. This is evidenced by use of language that prohibits the debt being renewed by payment of interest no more than two (2) times after which the minimum payment must be the interest due plus at least ten percent (10%) of the original principal. This would, of course, accomplish a payoff at a specific time. In determining whether a renewal or something else which does not count as a renewal has occurred, the Division of Finance will insist upon absolute good faith from its licensees and will look to substance rather than form. Generally, if the customer enters the office indebted and leaves the office indebted, a renewal will be assumed to have

taken place. A new loan, rather than a renewal, will be recognized where the customer's debt ceases to exist for at least the interval from the end of the business day the loan was paid in full to the beginning of the next business day.

(B) A title lender is required by section 367.525.4, RSMo to consider at the inception of the loan the borrower's ability to repay. This requires the title lender to consider the borrower's ability to make the required principal reductions when necessary. Exceptions to this requirement may result in enforcement as provided in section 367.532, RSMo which may include fines and/or revocation or suspension of the license.

(C) If a loan is renewed for a third or subsequent time without the required principal reduction, the title lender shall reduce the principal of the loan to an amount that is consistent with the requirements of section 367.512.1(4), RSMo.

(D) It is recognized that on rare occasions a borrower may be unable to pay the entire amount necessary to renew a loan. In this event, a title lender may 1) demand payment in full, 2) do nothing, 3) waive a portion of the interest due in order for the loan to be renewed, or 4) on a very limited basis, accept the payment of accrued interest without renewing the loan. The acceptance of accrued interest-only payments by a title lender is forbidden, by section 367.512.1(4), RSMo to become a pattern or practice.

(8) Books and Records. No special system of records is required by the commissioner of finance. The records of a title lender will be considered sufficient if they include a cash journal, double entry general ledger or a comparable record and an individual account ledger. The records of the business of each registered office shall be maintained so that the assets, liabilities, income and expenses may be readily ascertained.

(9) Cash Journal. A cash book or cash journal shall contain a chronological record of the receipt and disbursement of all funds including title transfer fees, filing fees and all other items or receipts or expenditures incidental to the granting or collection of a loan and replevin, repossession or sale of collateral.

(10) General Ledger. The general ledger shall be posted at least monthly. A trial balance sheet and profit and loss statement shall be available to the examiner. When the general ledger is kept at a central office other than the location of the registered office, the central office shall provide information required by this section.

(11) Account Ledger. An individual record shall be kept for each borrower. The ledger card or sheet shall include at least the following items:

- (A) Account number;
- (B) Name and address of the borrower;
- (C) Description of the titled personal property;
- (D) Date the original loan was made;
- (E) The original loan amount;
- (F) The amount of any fees assessed;
- (G) The interest rate;
- (H) Number of payments;
- (I) Amount of payments;
- (J) Date payments received;
- (K) Amount of each payment received;
- (L) Amount of each payment applied to interest;
- (M) Amount of each payment, if any, applied to late charges;
- (N) Amount of each payment, if any, applied to returned check charges;
- (O) Amount of each payment, if any, applied to principal; and
- (P) The principal balance.

(12) Records Available. All books, records and papers, including the contracts and applications, shall be kept in the office of the title lender and made available to the Division of Finance for examination at any time without previous notice. When contracts are hypothecated or deposited with a financial institution or other party in connection with credit, access must be provided for the examiner pursuant to agreement between the title lender and the other financial institution(s).

(13) Handling of Errors. When an error is made on the individual ledger or general ledger of a manual operation, a single thin line, preferably in red, shall be drawn through the improper entry and the correct entry made on the following line. No erasures whatsoever shall be made in any record.

(14) Contracts Paid in Full. When a title loan is paid in full, the original note or a copy thereof, shall be marked "paid" and returned to the borrower. Any security interest that no longer secures a loan shall be restored, canceled or released.

(15) Receipt for Payments. A receipt shall be given for the amount of each payment made in currency.

AUTHORITY: section 367.503.4, RSMo Supp. 2001.\* Original rule filed Feb. 15, 2002, effective Aug. 30, 2002.

\*Original authority: 367.503.4, RSMo 1998, amended 2001.

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## TITLE 4 - DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 140 - Division of Finance Chapter 30 - Mortgage Broker Rules

#### 4 CSR 140-30.010 Definitions

PURPOSE: This rule establishes definitions for use in Chapter 4 CSR 140-30 Mortgage Broker Rules.

(1) As used in Chapter 4 CSR 140-30 Mortgage Broker Rules, the definitions in section 443.803, RSMo shall apply and, in addition--

(A) "Act" means the Residential Mortgage Brokers License Act, sections 443.800 through 443.893, RSMo;

(B) "Assisting" or "helping" as used in section 443.803.1(17), RSMo shall not include activities undertaken by a person in pursuit of such person's licensed profession or occupation including, but not limited to insurance producer, attorney at law, certified public accountant, land surveyor, or professional engineer;

(C) "Commissioner" means the commissioner of finance (director of the Division of Finance) or agent thereof;

(D) "Control" means the power to, directly or indirectly, affect the voting interest of twenty-five percent (25%) or more of any class of the outstanding voting shares, or partnership interest or limited liability company interest, of a licensee;

(E) "Document" for purposes of section 443.891, RSMo shall include all business and financial documents and all books and records of any type or kind whatsoever;

(F) "First tier subsidiary" shall include any corporation or limited liability company which is owned or controlled by a bank and that has its principal place of business in Missouri;

(G) "Material" shall include, but not be limited to, a misstatement or omission of fact which, if it had not been misstated or omitted, may have altered the decision, approval, determination, or finding made by the commissioner or may have caused the commissioner to act or consider acting pursuant to any of the powers vested in the commissioner;

(H) "Principal place of business" means the principal place of business of the subsidiary's parent;

(I) "Principal shareholder" means person or entity that owns or controls ten percent (10%) or more of any class of stock of the applicant or person or entity, other than a depository institution that lends, provides or infuses funds to or into the applicant in an amount equal to, or more than, ten percent (10%) of the applicant's net worth;

(J) "State" means the state of Missouri; and

(K) "Wholesale mortgage lender" shall mean an entity or person engaged solely in purchasing existing loans without participating in the application process, negotiation or credit decision; any entity or person who provides the money for what is commonly known as "table funding" is ordinarily not a wholesale mortgage lender.

Auth: sections 443.847, 443.869(7) and 443.887, RSMo (Cum. Supp. 1996).\*  
Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 27, 1997.  
Original rule filed Nov. 25, 1996, effective May 30, 1997.  
\*Original authority 1994, amended 1995.

#### 4 CSR 140-30.030 Licensing

PURPOSE: This rule establishes guidelines for the licensing of mortgage brokers.

(1) Application for Missouri Residential Mortgage Brokers License.

(A) Applications for a license shall be in a form prescribed by the commissioner and shall include a nonrefundable license investigation fee which shall be set by the commissioner from time-to-time, not to exceed five hundred dollars (\$500).

(B) Failure to meet a request for additional information within ten (10) business days may result in denial of the application. A denial under such circumstances shall not affect subsequent applications filed with the appropriate investigation fee.

(2) Initial and Renewal Missouri Residential Mortgage Brokers Licenses.

(A) Upon approval of an initial brokers license, the commissioner shall collect a nonrefundable license fee, which shall be set by the commissioner from time-to-time, not to exceed one thousand dollars (\$1,000).

(B) Applications for renewal of a license shall be in a form prescribed by the commissioner. Such completed renewal application shall be received by the commissioner at least sixty (60) days prior to such licensee's biennial renewal date. Upon approval of a biennial renewal of a brokers license, the commissioner shall collect a nonrefundable renewal license fee, which shall be set from time-to-time by the commissioner, not to exceed two thousand dollars (\$2,000), half upon issuance of the license, and the balance one (1) year thereafter.

(3) Amended License Fees--Corporate Changes. The commissioner shall collect an amended license fee not to exceed five hundred dollars (\$500) for each amended license required by 4 CSR 140-30.040 and for each notice of change of officers or directors or change of name or address, a fee of fifty dollars (\$50).

(4) Duplicate Original License Fees. The commissioner shall collect a duplicate original license fee of fifty dollars (\$50) for each duplicate original license issued.

(5) Additional Full Service Office. Each licensee which intends to operate and maintain an additional full service office, shall file a Notice of Intent to Establish an Additional Full Service Office, on a form prescribed by the commissioner, thirty (30) days prior to the proposed operation; the commissioner shall collect a fee of ten dollars (\$10) at the time the notice is filed.

(6) Waiver of License Fee. Applicants which intend to request a waiver of fees per section 443.837, RSMo shall file such request at least sixty (60) days prior to the licensing or renewal date.

Auth: sections 443.847, 443.869(7) and 443.887, RSMo (Cum. Supp. 1996).\*  
Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997.  
Original rule filed Nov. 25, 1996, effective May 30, 1997.  
\*Original authority 1994, amended 1995.

#### **4 CSR 140-30.040 Operations and Supervision**

PURPOSE: This rule establishes operations and supervision guidelines concerning net worth, audit reports, escrow, change in business activities, change of ownership, bonding requirements, servicing, and full service offices.

(1) Net Worth.

(A) Amount. Each licensee shall maintain at least that minimum net worth set by section 443.859, RSMo as amended.

(B) Calculation. "Net worth" is total assets minus total liabilities, subject to limitations which may from time-to-time be prescribed by the commissioner to preserve the intent of the law.

(2) Late Audit Reports. Failure to timely deliver audit reports per section 443.851, RSMo shall result in suspension of the licensee's authority to do business absent an extension by the commissioner. Applications for extensions must be in writing and filed at least fifteen (15) days prior to the deadline. The commissioner shall consider whether such request results from conditions beyond the control of the licensee. An independent auditor may be appointed by the commissioner at the licensee's expense any time after the deadline.

(3) Escrow.

(A) Funds collected for a rate-lock fee or for payment for third party services shall be placed with a licensed and bonded disbursing agent or licensed real estate broker and shall be disclosed as a part of the licensee's financial statement package; for purposes of this rule, a licensed and bonded disbursing agent shall include an escrow agent per section 339.600, RSMo, et seq.

(B) Where servicing includes maintenance of an escrow account for payment of taxes and/or insurance premiums, the funds shall be placed in a federally insured depository institution, to be removed and used only for--

1. Authorized payments for taxes and/or insurance premiums;
2. Refunds to the mortgagor;
3. Transferring to another institution as described in this subsection;
4. Forwarding to the appropriate servicer in case of a transfer of servicing; or
5. Compliance with a regulatory or court order.

(C) All servicing activities shall be in strict accordance with the Act and all state and federal laws.

(4) Proceedings Affecting a Licensee. Each licensee shall be required to notify the commissioner within five (5) business days of becoming the subject of any other government agency proceedings which could affect the licensee's authority.

(5) Change in Business Activities. Each licensee shall provide the commissioner at least fourteen (14) days' advance notice of an action to--

- (A) Close a full-service office; or
- (B) Discontinue brokering, originating, or servicing.

(6) Change of Ownership, Control or Name or Address of Licensee. Prior to a change of ownership or control, a change of name or address or a change of officers or directors, a licensee shall file the appropriate application and fee on a form prescribed by the commissioner.

(A) Change of Ownership or Control. An application on a form prescribed by the commissioner for a new Missouri residential mortgage brokers license shall be submitted with the fee by the prospective purchaser at least forty-five (45) days prior to the proposed change. The commissioner shall issue a new license, a finding that the proposed change of ownership or control does not require a new license or a denial.

(B) Change of Name or Address. A licensee shall file an Application for Change of Name or Address, with the fee, ten (10) business days in advance, on a form prescribed by the commissioner. The name change shall be approved unless deceptively similar to another name.

(C) Change of Officers or Directors. Within thirty (30) days of any change in a licensee's directors or principal officers, a report of such change shall be filed on a form prescribed by the commissioner along with the appropriate fee.

(7) Bonding Requirements. Each licensee shall maintain a bond or irrevocable letter of credit in the amount of twenty thousand dollars (\$20,000). If a bond, it must be issued by some insurance company licensed to do business in this state and shall be in a form approved by the commissioner; if an irrevocable letter of credit, it must be issued by a financial institution insured by the Federal Deposit Insurance Corporation and shall be in a form approved by the commissioner. The bond or irrevocable letter of credit shall be payable to the commissioner and shall be filed with the commissioner prior to the issuance of a license.

(8) Servicing. All licensees must comply with the servicing and transfer of servicing requirements established by applicable federal and state statutes and regulations.

(9) Full-Service Office.

(A) Each licensee shall maintain a full-service office consistent with section 443.857, RSMo. At a minimum, each licensee shall provide at such office a staff reasonably adequate to handle efficiently all matters relating to a loan application or existing loan. In determining whether a licensee handles such matters in a reasonably adequate manner, the commissioner shall consider consumer complaints received regarding such licensees and information obtained from examinations conducted and reports filed and whether the licensee has--

1. Provided facilities and personnel adequate to accommodate a borrower who wishes to bring all documents concerning an existing home mortgage or a mortgage application to the full-service office for examination; and
2. Maintained a supply of all required documents.

(B) If it is determined that a licensee is not in compliance with section 443.857, RSMo, the commissioner shall notify the licensee in writing detailing the requirements to achieve compliance, along with a reasonable deadline.

Auth: sections 443.847, 443.869(7) and 443.887, RSMo (Cum. Supp. 1996).\*  
Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997.  
Original rule filed Nov. 25, 1996, effective May 30, 1997.  
\*Original authority 1994, amended 1995.

#### **4 CSR 140-30.050 Annual Report of Mortgage Brokerage Activity and Mortgage Servicing Activity**

PURPOSE: This rule declares requirements for annual reports by mortgage brokers.

(1) Filing Requirements. By March 1 of each year, each licensee must file an Annual Report of Mortgage Brokerage Activity on a form provided by the commissioner. If any category(ies) requested has nothing to report, then the proper response is "none."

(A) The Annual Report of Brokerage Activity shall include the names of the originators, dollar amount of the loans and with whom the licensee had mortgage brokerage agreements including any specific loan programs and any aggregate dollar limits. Each licensee which reports any default or foreclosure shall also furnish the name of the lender who originated the loan.

(B) Licensees which file a Home Mortgage Disclosure Act (HMDA) report may file a copy thereof in lieu of the report described herein.

(2) Verification. An affidavit, attesting to truthfulness, must accompany each Annual Report of Brokerage Activity and Annual Servicing Report. This verification must be signed by the owner of a sole proprietorship, by all partners of a partnership, all directors of a corporation, or by all members of an association.

Auth: sections 443.847, 443.869(7) and 443.887, RSMo (Cum. Supp. 1996).  
Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997.  
Original rule filed Nov. 25, 1996, effective May 30, 1997.  
\*Original authority 1994, amended 1995.

#### **4 CSR 140-30.070 Advertising**

PURPOSE: This rule creates general guidelines for advertising practices by mortgage brokers.

(1) General Prohibition. No person or other entity except a licensee or an exempt entity shall circulate or use any advertising or make any representation or give any information to any person which indicates or reasonably implies activity involving the making, servicing or brokering of loans secured by Missouri residential real estate.

(2) Definition of Advertisement. An advertisement is any message, conveyed in any format, attempting to induce, directly or indirectly, any person to enter into a residential mortgage loan or loan brokerage agreement; provided, small items bearing only a name, address and telephone number (examples: pencils, pens, buttons, pins, pocket calendars, balloons, and business cards) are excepted.

(3) Compliance with Other Laws. Every advertisement shall comply with the Act and federal and state law.

(4) Requirements. Any advertisement shall include:

(A) The name and an office address of such licensee or exempt entity, which shall conform to a name and address on record with the commissioner.

(5) Misleading and Deceptive Advertising Prohibition. Advertisements shall not be false, misleading or deceptive or indicate or imply that interest rates or charges are in any way "recommended," "approved," "set" or "established" by Missouri or the Act.

Auth: sections 443.847, 443.869(7) and 443.887, RSMo (Cum. Supp. 1996).  
Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997.  
Original rule filed Nov. 25, 1996, effective May 30, 1997.  
\*Original authority 1994, amended 1995.

#### **4 CSR 140-30.080 Loan Brokerage Practices**

PURPOSE: This rule establishes general practices guidelines for mortgage brokers in the areas of agreements and disclosures.

(1) Loan Brokerage Agreement. A loan brokerage agreement (agreement) is not required where licensee is a lender not engaged in the act of brokering. Where the licensee is acting as a broker, a written agreement shall be signed and dated by both the loan applicant (borrower) and licensee before the applicant signs an application or gives any consideration and--

(A) Carry a clear and conspicuous statement that a copy is available to the borrower or the borrower's attorney for review prior to signing;

(B) Contain an explicit description of the services the licensee agrees to perform and include the federally required good faith estimate of costs. In the same area of the agreement shall be equally prominent language listing the circumstances which could materially affect the amounts indicated due to unforeseeable details;

(C) Carry a clear and conspicuous statement about conditions under which the borrower is obligated to pay the licensee;

(D) Truth-in-lending disclosures, transfer of servicing documents, good faith estimates of closing costs and all other documents required by state or federal law shall be provided and signed by the borrowers within three (3) days of the application;

(E) Except for a rate-lock fee agreement in accordance with 4 CSR 140-30.110, the loan brokerage agreement shall be the only agreement between the borrower and licensee with respect to a single loan unless otherwise required by federal or state law; and

(F) A copy signed by or on behalf of the licensee shall be given to the borrower.

(2) Loan Brokerage Disclosure Statement. Before the borrower signs an agreement or gives the licensee any consideration, the licensee shall give the borrower a written disclosure statement and shall obtain the customer's signature on a duplicate of the disclosure statement near bold and conspicuous wording indicating that the customer has read and understands the statement. The statement shall prominently display the following information in the order presented:

(A) The licensee is or is not making this loan;

(B) Whether funding is provided by another entity, which may affect availability of funds;

(C) The name under which the licensee has operated during the preceding ten (10) years and, if applicable, the name of any parent or affiliated company;

(D) Whether the licensee is an individual, partnership, association, or corporation; and

(E) If the licensee brokers loans to only one (1) entity, disclosure of that fact.

(3) Combined Forms. The loan brokerage agreement and the loan brokerage disclosure statement may be combined into one (1) form.

Auth: sections 443.847, 443.869(7) and 443.887, RSMo, (Cum. Supp. 1996).  
Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997.  
Original rule filed Nov. 25, 1996, effective May 30, 1997.  
\*Original authority 1994, amended 1995.

#### **4 CSR 140-30.090 Loan Application Practices**

PURPOSE: This rule states the guidelines for the various loan application procedures of mortgage brokers.

(1) Borrower Information Document. Before a mortgage loan applicant (borrower) signs a completed application, the licensee shall give the borrower a Borrower Information Document. The document may be incorporated into or appended to such material as is necessary for compliance with related federal requirements. All of the following information shall be included in the document:

(A) Regulatory Disclosure Statement. The following statement: "This document is provided pursuant to the Residential Mortgage Brokers License Act and related rules. Its purpose is to list those exhibits and materials you should receive with your application with (name of licensee) which is regulated by the Missouri commissioner of finance whose phone number is (573) 751-3242"; and

(B) Significant information on the types of situations which could affect the processing of the loan but which may not be known by the licensee at the time the application was taken.

(2) Required Documentation. A licensee shall observe good faith in requiring documents from the applicant.

(3) Confirmation of Statements. Within three (3) business days of receiving an applicant's written request, a licensee shall confirm or deny in writing any specific oral statements or promises made to the applicant.

(4) Maintenance of Records. Each licensee shall maintain an application log and shall produce it for examination by the commissioner. It shall contain at least the following concerning each application received during the previous thirty-six (36) months:

(A) Application date;

- (B) Applicant's name;
- (C) Property address;
- (D) Loan amount;
- (E) Terms, loan program;
- (F) Loan officer;
- (G) If closed, disposition of the loan and servicing;
- (H) The Loan Brokerage Agreement and Loan Brokerage Disclosure Statement;
- (I) The Borrower Information Document; and
- (J) Any other documents the commissioner may require the licensee to obtain.

Authority: sections 443.847, 443.869(7) and 443.887, RSMo (Cum. Supp. 1996).  
 Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997.  
 Original rule filed Nov. 25, 1996, effective May 30, 1997.  
 \*Original authority 1994, amended 1995.

#### **4 CSR 140-30.100 General Practices**

PURPOSE: This rule establishes requirements for certain practices by mortgage brokers in the areas of notices to joint borrowers, changes in loans in process, use of unauthorized brokers or lenders and the general requirement of good faith.

(1) Notice to Joint Borrowers. Any notice required by Chapter 4 CSR 140-30 shall be given to all joint applicants.

(2) Changes Affecting Loans in Process.

(A) If an applicant does not qualify, the licensee shall immediately provide a written and, when possible, an oral explanation of any other program for which the applicant may qualify.

(B) When any notice is received which materially affects a loan in process, the licensee shall immediately so notify the applicant in writing and, when possible, orally.

(3) Prohibition of Unauthorized Brokers or Lenders. No licensee shall knowingly use the services of any broker or lender not licensed or exempt.

(4) Good Faith Requirements.

(A) Any disclosure or action required by the Act or regulations shall be undertaken in good faith.

(B) A licensee shall not collect any charges unless able to demonstrate that if normal residential mortgage loan requirements are met, there is a reasonable likelihood that a loan commitment will be issued under conditions set forth.

(C) A licensee shall process applications within the time specified in the contract.

Auth: sections 443.847, 443.869(7) and 443.887, RSMo (Cum. Supp. 1996).  
 Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997.  
 Original rule filed Nov. 25, 1996, effective May 30, 1997.  
 \*Original authority 1994, amended 1995.

#### **4 CSR 140-30.110 Commitment and Closing Practices**

PURPOSE: This rule sets standards for mortgage brokers' commitments and closings.

(1) Approval Notice. Immediately upon approval of a loan application, the licensee shall deliver to the applicant a written loan approval notice stating the terms and conditions of the loan, namely--

- (A) The day the loan commitment expires;
- (B) All economic terms of the loan and their duration;

and

(C) Whether the economic terms are fixed or, if subject to change, an explanation of the time when, circumstances under which, and extent to which they may be changed.

(2) Inconsistent Conditions Prohibited. No residential mortgage loan commitment shall contain conditions inconsistent with those required by the state and federal laws in effect at the time of application, unless such conditions are less onerous to the applicant.

(3) Avoidance of Commitment. If an applicant and the real estate meet normal standards, the licensee shall not refuse to make the loan to avoid complying with agreed to terms.

(4) Delay. Any licensee which delays processing an application with the result that a borrower incurs higher costs shall be liable to the borrower for such increase in costs, including points and rates, and for a reasonable attorney's fee.

(5) Fees and Charges Prior to Closing.

(A) Any fee paid by the borrower prior to closing shall be placed with a licensed and bonded disbursing agent or licensed real estate broker. A licensee shall not require a borrower to pay any fees or charges prior to the loan closing, except--

- 1. Charges to be actually and necessarily incurred for services from third parties needed to process the application; and
- 2. A rate-lock fee (fee), all of which must be a bona fide fee paid in full to a third party, and further provided--

A. The Rate-Lock Fee Agreement is in writing and signed by both the licensee and the applicant and states--

- (I) The expiration date of the fee agreement;
- (II) The amount of the loan;
- (III) The maximum interest rate and maximum discount (points); and

(IV) The term of the loan; and

B. The licensee is able to demonstrate to the commissioner that--

(I) The licensee is able to perform under the terms of the fee agreement; and

(II) Subject to verification, the information submitted by the borrower indicates that the loan will be approved in accordance with the fee agreement; and

C. The fee is deposited in escrow in accordance with the requirements of 4 CSR 140-30.040, for the following distribution:

(I) The fee is paid to the lender and credited to the borrower at closing; and

(II) The fee must be refunded if the loan does not close in accordance with the fee agreement, except that the fee may be retained upon the licensee's ability to demonstrate to the commissioner any of the following reasons: the applicant withdrew the loan application; the applicant has made a material misrepresentation on the loan application; the applicant has failed to provide documentation necessary to the processing or closing of the loan, such documents having been timely requested; and

(III) When the fee is to be retained, the licensee shall send a written notice to the borrower stating the reason for retaining the fee.

(6) Refunds on Failure to Close. If a residential mortgage loan is not closed through no fault of the applicant, all the charges described in section (5) shall be refunded to the applicant, except to the extent such charges were incurred in good faith by the licensee on behalf of the applicant for third party services.

(7) Licensee's Failure to Close--Disclosure. If a loan fails, through no fault of the applicant, to close within the specified commitment period, the licensee shall provide detailed written notification to such applicant of why the loan failed to close and specify any resulting conditions which will affect the availability of such loan.

(8) Escrow Account Agreements at Closing. If the mortgage requires an escrow account for taxes and/or insurance premiums, a written Escrow Account Disclosure Agreement shall



be executed at closing. Compliance with applicable federal law shall constitute compliance with this rule.

Auth: sections 443.847, 443.869(7) and 443.887, RSMo (Cum. Supp. 1996).\*  
Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997.  
Original rule filed Nov. 25, 1996, effective May 30, 1997.  
\*Original authority 1994, amended 1995.

#### **4 CSR 140-30.120 Exemption Guidelines**

PURPOSE: This rule states the guidelines for exemption from the licensing requirements for mortgage brokers.

(1) General. The exemption provision of section 443.803.1(8), RSMo shall be construed to avoid duplication of licensing and supervision by state and federal agencies. To the extent that specific conduct or business activity is not otherwise separately licensed or regulated, the provisions of section 443.803.1(8), RSMo shall be strictly construed.

(2) Interpretive Guidelines. Any person may request an interpretative ruling of the commissioner on the question whether that person is an exempt entity. Such requests shall be in writing and contain information sufficient to reasonably inform the commissioner of the basis for the exemption.

(3) Exempt List. The commissioner requests that all exempt entities file a letter disclosing exempt status and the reason therefore at the Division of Finance, Residential Mortgage Section, P.O. Box 716, Jefferson City, MO 65102.

Auth: sections 443.847, 443.869(7) and 443.887, RSMo (Cum. Supp. 1996).\*  
Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997.  
Original rule filed Nov. 25, 1996, effective May 30, 1997.  
\*Original authority 1994, amended 1995.

## **TITLE 4 - DEPARTMENT OF ECONOMIC DEVELOPMENT**

### **Division 140 - Division of Finance Chapter 31 - Mortgage Broker Board**

#### **4 CSR 140-31.010 General Organization - Mortgage Broker Board**

PURPOSE: This rule complies with section 536.023, RSMo (1994) which requires each agency to adopt as a rule a description of its operation and the methods where the public may obtain information or make submissions or requests.

(1) The Residential Mortgage Board determines appeals from decisions of the commissioner of finance concerning issuance, denial, revocation, or suspension of a residential mortgage license and approves regulations promulgated by the commissioner of finance.

(2) The Residential Mortgage Board is a bipartisan board consisting of five (5) individuals appointed by the governor. Two (2) of the board members are forbidden to have any interest in any mortgage brokerage business, three (3) must be experienced in mortgage brokering and one (1) of the five (5) board members must be an attorney. The board shall designate its own chairman and secretary. A majority of the members of the board shall constitute a quorum and the decision of a majority of a quorum shall be the decision of the board. The board shall meet upon call of the chairman, or of the director, or of any two (2) members of the board, and may meet at any place in this state.

(3) Information relating to the activities of the Residential Mortgage Board may be directed to the Residential Mortgage Board, 301 West High Street, P.O. Box 716, Jefferson City, MO 65102.

Auth: sections 443.816, RSMo (Cum. Supp. 1996) and 536.023, RSMo (1994).\*  
Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997.  
Original rule filed Nov. 25, 1996, effective May 30, 1997.  
\*Original authority: 443.816, RSMo (1995) and 536.023, RSMo (1975) amended 1976.

#### **4 CSR 140-31.020 Rules of Procedure**

PURPOSE: The Residential Mortgage Board was established to hear appeals from certain decisions of the commissioner of finance. In order to facilitate these appeals, the board is issuing these rules of procedure.

(1) Definitions. As used in this rule, except as otherwise required by the context--

(A) Appellants shall mean persons who are appealing a decision of the commissioner of finance;

(B) Board shall mean the Residential Mortgage Board;

(C) Commissioner shall mean the commissioner of finance and director of the Division of Finance;

(D) Presiding officer shall mean the chairman of the Residential Mortgage Board or any board member designated by the presiding officer to assume those duties; and

(E) Secretary shall mean that member chosen by the board to assume those duties.

(2) Records of the Board. The secretary shall maintain a complete record of all proceedings of the board. All orders or other actions of the board shall be certified or authenticated by the signature of the secretary.

(3) Pleadings shall be bound at the top, shall be typewritten on paper eight and one-half inches by eleven inches (8 1/2" 11") in size and exhibits, wherever practical, folded to that size. Typing shall be on one (1) side of the paper only and shall be double spaced, except that footnotes and quotations in

excess of a few lines may be single spaced. Briefs shall be typewritten or printed on paper eight and one-half inches by eleven inches (8 1/2" 11"). Reproduction may be by any process, provided the copies are clear and permanently legible.

(4) Title and Number. Pleadings, briefs and other documents shall show the title of the proceeding and shall show the name, address, telephone number and fax number of the attorney, if any, on the flyleaf or at the end of the document. In the event the title of the proceeding contains more than one (1) name as appellant or intervenor, it shall be sufficient to show only the first of those names as it appears in the first document commencing the proceeding.

(5) Appeal Allowed. Appeals will be allowed from the decision of the commissioner as provided by law and the board shall hear the appeal. At the time the appeal is to be heard, testimony will be taken by the board on issues specifically raised by the notice of appeal and any application to intervene. The board will follow the practice of administrative agencies concerning the admissibility of evidence in contested cases as provided for in section 536.070, RSMo and may receive evidence by deposition as provided in section 536.073, RSMo.

(6) Notice of Appeal. The appellant, within ten (10) days of the commissioner mailing notice of the action shall file a notice of appeal to the board, specifically stating which finding of the commissioner the appellant challenges. The notice of appeal may be delivered to the board by mailing it to the Division of Finance at P.O. Box 716, Jefferson City, MO 65102.

(7) Docket and Hearing Calendar. The commissioner shall maintain a docket of all proceedings and each proceeding shall be assigned an appropriate case number. The commissioner shall maintain a record of proceedings filed and proceedings set for hearing which shall be available for public inspection at the office of the Division of Finance in Jefferson City, Missouri. The docket and hearing calendar shall be available for public inspection during office hours.

(8) Prehearing Conference. The presiding officer may hold prehearing conferences for the purpose of formulating or simplifying the issues, arranging for the exchange of proposed exhibits or prepared expert testimony, limitation of the number of witnesses and such other matters as may expedite orderly conduct and disposition of the proceedings.

(9) Time and Place. Notice of the day, hour and place of hearing shall be served at least ten (10) days prior to the time set on all appellants and intervenors, unless the board shall find that public necessity requires hearings be held on shorter notice. The hearing shall be held at a place determined by the presiding officer. At the direction of the board, the commissioner shall serve notice by mail to each party designated as applicant or intervenor.

(10) Limiting Number of Witnesses. To avoid unnecessary cumulative evidence, the presiding officer may limit the number of witnesses or the time for testimony on a particular issue.

(11) Who May Practice Before the Board. Only licensed attorneys from Missouri or from other states as provided, shall be permitted to practice before the board. Attorneys who are not members of the Missouri bar shall be permitted to practice before the board under the same rules and limitations as an attorney in good standing in Missouri would be permitted to practice before the corresponding board, official or other body of the state of the nonresident attorney. A party may act as his/her own attorney if s/he desires.

(12) Form and Admissibility. The board will follow in general the practice in the circuit court of the state and the common law rules on admissibility of evidence as interpreted by

the courts of the state, except that the board may permit the introduction of hearsay evidence when, in its opinion, circumstances require.

(13) Ruling. The presiding officer shall rule on the admissibility of all evidence. That ruling may be reviewed by the board in determining the matter on its merits.

(14) Objections and Exceptions. When objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly. Formal exception to rulings are unnecessary and need not be taken.

(15) Offer of Proof. When a party wishes to make an offer of proof for the record, that offer shall consist of a statement of the substance of the evidence to the admission of which objection has been sustained.

(16) Prepared Testimony. With the approval of the presiding officer, a witness may read into the record his/her testimony and direct examination. Before any prepared testimony is read, unless excused by the presiding officer, the witness shall deliver copies to the presiding officer, the court reporter and counsel for all parties. Admissibility of testimony shall be subject to the rules governing oral testimony. If the presiding officer deems that substantial saving of time will result without prejudice to any party, prepared testimony may be copied into the record without having the witness read it aloud; provided, however, that the witness shall be available for cross-examination by any party other than the party on whose behalf the testimony is admitted.

(17) Documentary Evidence. If relevant, material matter offered in evidence is embraced in the document containing other matter, the party offering it shall designate specifically the matter so offered. If other matter in the document would unnecessarily encumber the record, the document will not be received in evidence but at the discretion of the presiding officer, the relevant material matter may be read into the record or copies received in exhibit. Other parties will be afforded opportunity to examine these documents and to offer into evidence other portions believed material and relevant.

(18) Stipulations. The parties may file a stipulation of the facts or expected testimony and in this event the same shall be numbered and used at the hearing. This procedure is desirable wherever practical.

(19) Exhibits. Exhibits shall be legible and, wherever practical, shall be prepared either on paper not exceeding eight and one-half inches by eleven inches (8 1/2" 11") in size or be bound and folded to that approximate size. Wherever practical, the sheets of each exhibit should be numbered and, where necessary, explained by index.

(20) Marking of Exhibits. Exhibits shall be marked as follows: Appellants' exhibits shall be numbered consecutively in order of their introduction and numbered as follows: Appellant Exhibit 1 and Appellant Exhibit 2, etc. The division's exhibits will be marked alphabetically. When exhibits are offered into evidence, the original and two (2) copies shall be furnished to the reporter and the party offering the exhibit should also be prepared to furnish a copy to each member of the board sitting.

(21) Board Records. If any document in the records of the Division of Finance is offered into evidence, that document need not be produced as an exhibit unless directed otherwise by the presiding officer, but may be received into evidence by reference, provided that the particular portions of that document are specifically identified and are otherwise competent, relevant and material.

(22) Judicial Notice. Official and judicial notice may be taken of those matters which may be noticed by the courts of Missouri.

(23) Additional Evidence. At the hearing, the presiding officer may require the production of further evidence upon any issue. Upon agreement of the parties, s/he may authorize the filing of specific documentary evidence as a part of the record within a fixed time after the submission, reserving exhibit numbers.

(24) Briefs. If counsel or any party requests permission to file a brief, the presiding officer shall fix the time for filing of briefs. Failure to request, at the close of the testimony, the fixing of time for filing briefs shall waive the right to subsequently file a brief.

(25) Decisions. Proceedings shall be submitted for the decision of the board after the taking of testimony and the filing of the briefs, as may be prescribed by the board or its presiding officer. The board's formal decision and order shall be issued as soon as practicable after the proceedings have been submitted. Decisions and orders shall be served by the commissioner mailing or making personal delivery of certified copies to the parties of record. When a party to a proceeding has appeared by representative, service upon that representative shall be deemed service upon the party.

(26) Construction of Rules. These rules shall be liberally construed to secure just, speedy and inexpensive determination of all issues presented. These rules may be amended at any time by the board.

(27) Forms. The following form of Notice of Appeal is merely illustrated as a general form. The content of particular pleadings will vary depending upon the subject matter and applicable procedural rules.

BEFORE THE RESIDENTIAL MORTGAGE BOARD OF THE  
STATE OF MISSOURI IN THE MATTER OF THE DENIAL,  
REVOCATION, ETC. OF THE LICENSE OF XYZ BROKERS  
BY THE COMMISSIONER OF FINANCE.

#### NOTICE OF APPEAL

You are hereby notified that an appeal is taken from the decision of the Commissioner of Finance denying, etc. a license to the XYZ Brokers for the following reasons:

1. The Commissioner was in error in finding that  
(State any specific ground relied on in the appeal).

WHEREFORE, petitioner prays said license be (issued, restored, etc.) as petitioned for.

XYZ MORTGAGE BROKER  
By Its Attorney  
(Mailing Jurat in Standard Form)

(28) Costs. The board will obtain the services of a court reporter to transcribe the hearing. The costs of original and four (4) copies of the transcript shall be taxed against the losing party.

(29) Service of Process. The commissioner of finance or a deputy shall be the agent for service of process on the board in any appeal arising from a decision of the board.

Auth: sections 443.816, RSMo (Cum. Supp. 1996) and 536.023, RSMo (1994).  
Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997.  
Original rule filed Nov. 25, 1996, effective May 30, 1997.  
\*Original authority: 443.816, RSMo (1995) and 536.023, RSMo (1975), amended 1976.

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